

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Eric A. Dawson,)	
)	C/A No. 3:18-3170-MBS
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
Robert Wilkie, Donald L. Omura,)	
)	
Defendants.)	
_____)	

Plaintiff Eric A. Dawson, proceeding pro se, filed a complaint on November 26, 2018, seeking judicial review of a decision denying him veterans' benefits at the William Jennings Bryan Dorn VA Medical Center ("Dorn Medical Center") in Columbia, South Carolina. Defendant Robert Wilkie is Secretary of Veterans Affairs (the "VA"). Defendant Donald L. Omura is Director/CEO of Dorn Medical Center. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling.

On January 28, 2019, Plaintiff filed a motion for summary judgment. On March 13, 2019, Defendants filed a motion to dismiss for lack of subject matter jurisdiction. By order filed March 15, 2019, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the dismissal procedures and the possible consequences if he failed to respond adequately. On March 18, 2019, Defendants filed a response in opposition to Plaintiff's motion for summary judgment. Plaintiff filed a response in opposition to Defendants' motion to dismiss on May 16, 2019.

On June 6, 2019, the Magistrate Judge filed a Report and Recommendation in which she noted that, under the Veterans' Judicial Review Act ("VJRA"), a veteran dissatisfied with the VA's

determination regarding benefits may appeal the decision to the Board of Veterans' Appeals, which decision may in turn be appealed to the United States Court of Appeals for Veterans Claims, and ultimately to the Court of Appeals for the Federal Circuit. The Magistrate Judge found that the VJRA provides the exclusive means for review of Plaintiff's claims. Accordingly, the Magistrate Judge recommended that Defendants' motion to dismiss for lack of subject matter jurisdiction be granted, and that Plaintiff's motion for summary judgment be denied as moot. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation and incorporates it herein by reference. Defendants' motion to dismiss for lack of subject matter jurisdiction (ECF No. 20) is **granted**. Plaintiff's motion for summary judgment

ECF No. 15) is **denied as moot**.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

July 12, 2019